

REMARKS

Claims 1-33 are now pending in the present application. Reconsideration is respectfully requested.

The allowability of claims 4, 5, 17, 21 and 33 is gratefully acknowledged. Applicant thanks the Examiner for the detailed review. The specification and drawings have been amended to be clear and definite.

OBJECTIONS TO THE DRAWINGS UNDER 37 C.F.R. §1.84(p)(5):

The drawings were objected to under 37 C.F.R. §1.84(p)(5) on the grounds that the drawings did not include particular reference signs as mentioned in the description. Corrections to the drawings have been made in accordance with the Examiner's objections as previously noted.

OBJECTIONS TO THE SPECIFICATION:

The specification has been amended in accordance with the objections as raised by the Examiner.

CLAIM OBJECTIONS:

Claims 7, 11, 23 and 29 have been amended in accordance with the objections as raised by the Examiner. Claim 34 has been cancelled.

NON-STATUTORY DOUBLE PATENTING:

Claims 1-3, 6-16, 18-20 and 22-32 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6, and 14 of Wrase et al., U.S. Patent NO. 6,637,832, in view of Hodge et al., U.S. Patent No. 5,346,288.

A rejection based on a non-statutory double patenting is based on a judicially created doctrine grounded in public policy so as to prevent the unjustified or improper time wise extension of the right to exclude granted by patent. *In re Goodman*, 11 Fed.3rd 1046, 29 USPQ2nd 2010 (Fed. Circuit 1993); *In re Longi*, 759 Fed.2nd 887, 225 USPQ 645 (Fed. Circuit 1985); *In re VanOrnum*, 686 Fed.2nd 937, 212 USPQ 761 (CCPA 1982). Obviousness-type double patent requires rejection of an application claim when the claimed subject matter is not patentably distinct from the subject matter

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AMENDMENTS TO THE DRAWINGS:

The attached sheets of drawings include changes to Figs. 4 and 5. The replacement sheets, which includes Figs. 3-6, replaces the original sheet including Figs. 3-6. In Fig. 4, previously omitted reference numeral 40 has been added and in Fig. 5, previously omitted reference numeral 52 has been added.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

claimed in a commonly owned patent when the issuance of a second patent would provide unjustified extension of the term of the right to exclude granted by a patent. *Eli Lilly and Co. v. Baar Labs., Inc.*, 251 Fed.3d 955, 58 USPQ2d 1865 (Fed. Circuit 2001). A double patent rejection of the obviousness-type is “analogous to [a failure] the non obvious requirement of 35 U.S.C. §103” except that the patent principally underlying the double patent rejection is not considered prior art. *In re Braithwaite*, 379 Fed.2d 594, 154 U.S.P.Q. 29 (CCPA 1967). Therefore, any analysis employed in an obviousness-type double patenting rejection parallels the guidelines for an analysis of a 35 U.S.C. §103 obviousness determination. *In re Braat*, 937 Fed.2d 589, 19 U.S.P.Q. 2d 1289 (Fed. Cir. 1981).

Claim 1 of the present application defines a composite wheel that includes, among other things, a wheel cladding having at least one alignment tab extending from an inner surface of the wheel cladding for engaging a hub aperture of a wheel and aligning the cladding with respect to the hub aperture, and at least one support post extending from the inner surface substantially proximate the hub aperture and structurally supporting the wheel cladding with respect to the wheel.

Claim 1 of Wrase et al. defines a composite wheel comprising, a wheel having an outer surface and a plurality of exposed lug apertures formed in a circular pattern in a central hub region of the wheel, a generally circular undercut recess extending into a side of said wheel in radially inward space relationship from said lug apertures, wherein said side of said wheel faces said plurality of exposed lug apertures; and a wheel cladding including a body conforming to said outer surface of said wheel, and cladding having an exposed decorative outer surface and an inner surface facing said wheel when said wheel cladding is attached to said wheel, said cladding including a plurality of snap locking tabs extending from said inner surface for lockably fitting within said undercut recess of said wheel to hold said cladding to said wheel.

Claim 6 of Wrase et al, defines a wheel cladding for use with a wheel having an outer surface and a plurality of exposed lug apertures formed in a circular pattern surrounding a central hub region of the wheel and at least one undercut recess

extending into a side of the wheel facing and spaced radially inward from the lug apertures, said cladding comprising: a polymeric body generally conforming to an outer surface of a wheel to be covered and including a hub and lug-receiving apertures arranged in a circular pattern surrounding said hub, said cladding having an exposed decorative outer surface and an inner surface for facing the wheel when said cladding is attached to the wheel, said cladding including a plurality of snap-locking tabs extending from said inner surface for lockably fitting within the undercut recess of a wheel to hold said cladding to a wheel wherein said tabs are spaced radially inward from said lug-receiving apertures.

Claim 14 defines a composite wheel comprising a metal wheel having an outer surface and a plurality of exposed lug apertures formed in a circular pattern surrounding a central hub of said wheel, said hub includes a circular sidewall facing said plurality of exposed lug apertures and having an undercut recess extending into said sidewall and radially inward spaced relationship from said lug apertures; and a polymeric wheel cladding including a body conforming to said outer surface of said wheel, said cladding having an exposed decorative outer surface and an inner surface facing said wheel when said cladding is attached to said wheel, said cladding including a plurality of snap-locking tabs extending from said inner surface for lockably fitting within said undercut recess of said wheel to hold said cladding to said wheel.

Therefore, a comparison of these claims, specifically claim 1 of the present application, and claims 1, 6 and 14 of the Wrase et al. patent, indicates that several elements are missing from the claims of the Wrase et al. patent, including: at least one alignment tab extending from an inner surface of a wheel cladding for engaging a hub aperture of a wheel and aligning the cladding with respect to the hub aperture; and, at least one support post extending from the inner surface of the wheel cladding substantially proximate the hub aperture and structurally supporting the wheel cladding with respect to the wheel. Applicant contends that a significant number of elements are missing from the claims of Wrase et al. and that a rejection of claim 1 based upon obviousness-type double patent is wholly inappropriate, as the purpose of this judicially

created doctrine is to prevent an improper extension of patent rights. The claim(s) of the present application includes at least two additional elements as compared to the claims of Wrase et al. Moreover, there is no teaching or suggestion in any of the art as cited to add those elements nor for the solution of the problems these elements address.

Claims 1, 6, and 14 of Wrase et al., each define a wheel cladding that includes a plurality of snap-locking tabs that extend from an inner surface of the wheel cladding for lockably fitting within an undercut recess of a wheel, wherein the undercut recess extends into a sidewall of an associated wheel in a radially inward spaced relationship from a plurality of lug apertures. There is no teaching or suggestion within the cited art that the snap-locking tabs would provide adequate alignment of a wheel cladding with respect to a wheel. To the contrary, the alignment tabs as defined in claim 1 of the present application align with a central aperture, thereby negating a stack-error introduced by improper forming of the wheel or subsequent machining thereof. Further, there is no suggestion in the prior art that the snap-locking tabs as disclosed by Wrase et al. would provide adequate support against axial loads as is the function of the support posts defined within claim 1 of the present application.

The Examiner further claims that Wrase et al. shows but does not claim a wheel cladding that includes at least one support post extending from an inner surface of the wheel cladding substantially proximate to a hub aperture to structurally support the wheel cladding with respect to the wheel. However, a close review of Wrase et al. clearly shows that the "support post[s]" as referred to by the Examiner are in fact rack tabs that are employed for holding the cladding during a decorative treating process of the outer surface thereof, and further that these rack tabs need not be cut off from the claddings since a central annular recess surrounding the hub of the wheel provides adequate clearance for the tabs. See, Wrase et al., column 3, lines 53-59. A close review of Fig. 6 of Wrase et al. clearly shows that these rack tabs do not fact engage the associated wheel. Moreover, there is no suggestion within the cited art that these rack tabs would function properly even if properly positioned.

Therefore, Wrase et al. fails to disclose both an alignment tab that extends from an inner surface of a wheel cladding for engaging the hub aperture of a wheel, and a support post that extends from an inner surface substantially proximate the hub aperture and that structurally support the wheel cladding with respect to the associated wheel.

Hodge et al. discloses a disk having a plurality of upstanding ribs that are circumferentially spaced with respect to the associated cover member and project laterally from a back face thereof toward an associated wheel. As clearly illustrated in Fig. 2 of Hodge et al., the plurality of ribs disclosed therein are spaced about a periphery of the associated disk and are adapted to abut an outer annular rim of the associated vehicle wheel. These ribs are located proximate the outermost edge of the associated disk and are located so as to cooperate with a cushioning band so as to reduce unwanted squeaks and rattles caused by an interaction between the outer lip of the disk and the vehicle wheel. There is no teaching or suggestion by Hodge et al. to move the upstanding ribs as disclosed thereby inwardly toward the central hub. In fact, moving these ribs inwardly would defeat the purpose of decreasing the noise and rattles as caused by the interaction of the outermost portion of the disk with the associated wheel. The purpose of providing the support post proximate the hub aperture, as defined in claim 1, is to support the wheel cladding from the associated wheel when an axial load is placed on the cladding, e.g., during wheel balancing procedures. The placement of the upstanding ribs by Hodge et al. is completely inadequate for such requirements. Moreover, Hodge et al. does not disclose an alignment tab extending from an inner surface of a wheel cladding for engaging a hub aperture of a wheel and aligning the cladding with respect to the hub aperture.

Accordingly, claim 1 is in condition for allowance. Claims 2-9 are dependent from claim 1 which is in condition for allowance, and are therefore also in condition for allowance.

Claim 10 defines a wheel cladding assembly that includes, among other things, a body member adapted to conform to an outer surface of a wheel, the body member

having an exposed outer surface and an inner surface, and including at least one alignment tab extending from the inner surface for engaging a hub aperture centrally located within the wheel and adapted to align the body member with respect to the hub aperture. As discussed above, neither Wrase et al. nor Hodge disclose an alignment tab extending from an inner surface of a body member for engaging a hub aperture centrally located within a wheel. Therefore, claim 10 is patentable over Wrase et al. and Hodge et al.

Accordingly, claim 10 is in condition for allowance. Claims 11-17 are dependent from claim 10 which is in condition for allowance, and are therefore also in condition for allowance.

Claim 18 defines a wheel cladding assembly that includes, among other things, at least one alignment tab extending from an inner surface of a body portion for engaging a hub aperture of a wheel and adapted to align the body portion with respect to the wheel, and at least one support post extending from the inner surface of the body portion substantially proximate the hub aperture of the body portion and adapted to structurally support the body portion with respect to the wheel. As noted above, neither Wrase et al., nor Hodge et al. disclose an alignment tab or a support post as defined within claim 18. Therefore, claim 18 is patentable over the combination of Wrase et al. and Hodge et al.

Accordingly, claim 18 is condition for allowance. Claims 19-24 are dependent from claim 18 which is in condition for allowance, and are therefore also in condition for allowance.

Claim 26 defines a composite wheel that includes, among other things, a wheel cladding including at least one support post extending from an inner surface of the wheel cladding substantially proximate a hub aperture of a wheel and structurally supporting the wheel cladding with respect to the wheel. As noted above, neither Wrase et al. nor Hodge et al. discloses a support post extending from an inner surface substantially proximate a hub aperture. Therefore, claim 26 is allowable over the combination of Wrase et al. and Hodge et al.

Accordingly, claim 26 is in condition for allowance. Claim 27 is dependent from claim 26 which is allowable as noted above, and is therefore also in condition for allowance.

Claim 28 defines a wheel cladding assembly that includes, among other things, a body member that includes at least one alignment tab support post extending from an inner surface of the body member and adapted to abut the outer surface of a wheel substantially proximate a centrally-located hub aperture of the wheel. Similar to as noted above, neither Wrase et al. nor Hodge et al. discloses an alignment tab support post as defined in claim 28. Therefore, claim 28 is patentable over the combination of Wrase et al. and Hodge et al.

Accordingly, claim 28 is in condition for allowance. Claims 29-33 are dependent from claim 28 which is in condition for allowance, and are therefore also in condition for allowance.

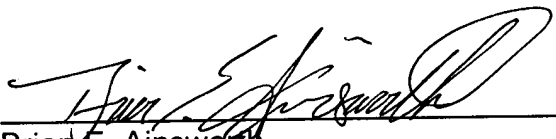
Accordingly, claims 1-33 are in condition for allowance, and a Notice of Allowability is earnest solicited.

Respectfully submitted,

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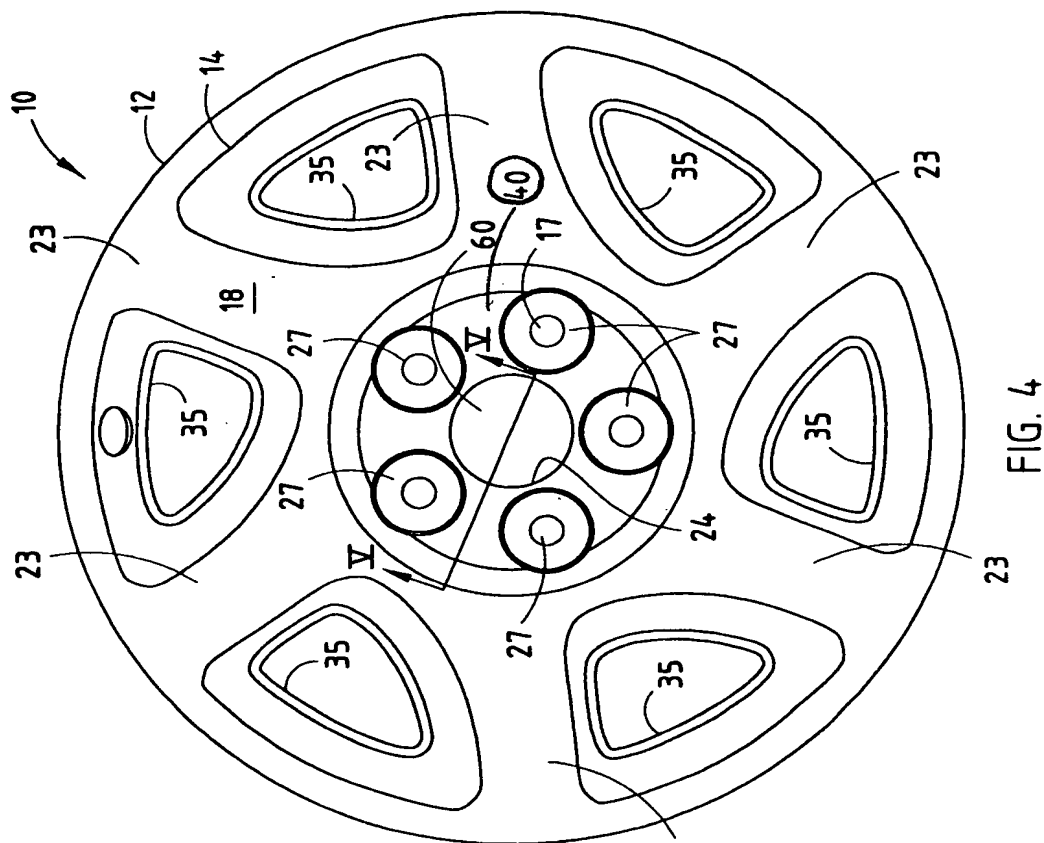


FIG. 4

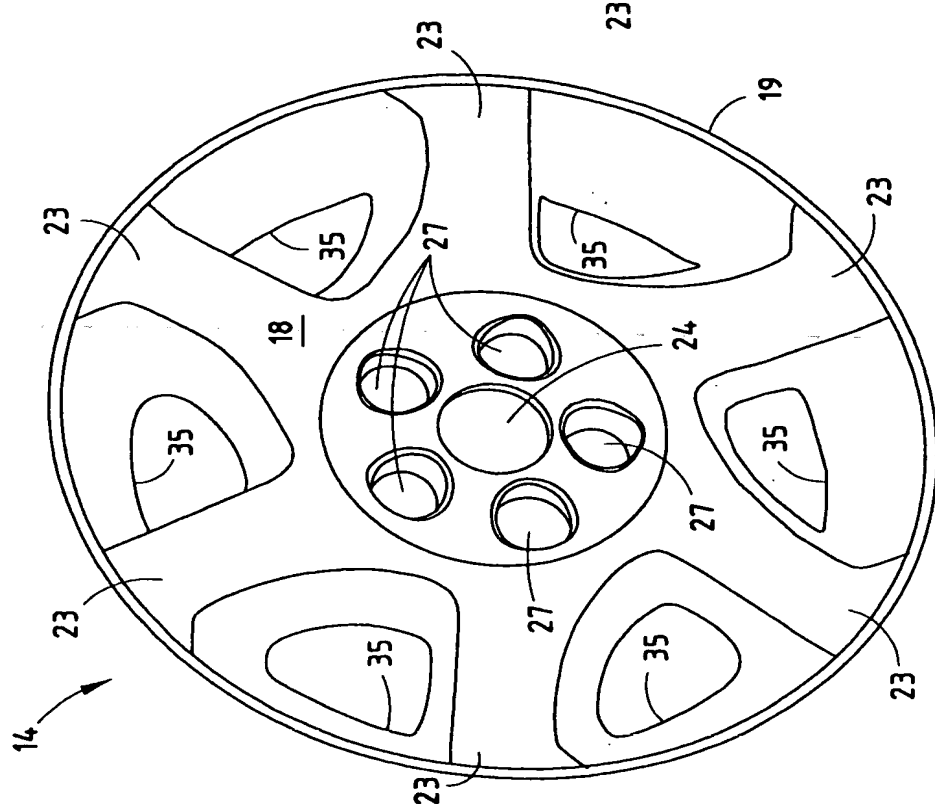


FIG. 3

